



DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-822]

Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2021-2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd. (collectively, Thai Union), a producer and exporter subject to this administrative review, did not make sales of subject merchandise at less than normal value during the period of review (POR) February 1, 2021, through January 31, 2022. Additionally, based on timely withdrawal of requests for review, we are rescinding this administrative review with respect to all other companies for which we initiated an administrative review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Benjamin A. Lubberda or Ann Marie Caton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2185 or (202) 482-2607, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 2022, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order¹ on certain frozen warmwater shrimp (shrimp) from Thailand.² On June 6, 2022, Commerce selected two mandatory respondents for individual examination: (1) Kongphop Frozen Food Co., Ltd.; and (2) Thai Union.³ On July 7, 2022, the Ad Hoc Shrimp Trade Action Committee (AHSTAC); the American Shrimp Processors Association (ASPA); and Thai Royal Frozen Food Co., Ltd. (Thai Royal) withdrew their requests for an administrative review with respect to every company except Thai Union.⁴

On October 3, 2022, Commerce extended the preliminary results of this review by 120 days, until February 28, 2023.⁵ For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁶ A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via

¹ *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand*, 70 FR 5145 (February 1, 2005) (*Order*).

² *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 21619 (April 12, 2022) (*Initiation Notice*).

³ *See* Memorandum, “Selection of Respondents for Individual Review,” dated June 6, 2022. In the 2012-2013 administrative review, Commerce found that the following companies composed a single entity: Thai Union Frozen Products Public Co. Ltd.; Thai Union Seafood Co., Ltd.; Pakfood Public Company Limited; Asia Pacific (Thailand) Co., Ltd.; Chaophraya Cold Storage Co., Ltd.; Okeanos Co., Ltd.; Okeanos Food Co., Ltd.; Takzin Samut Co., Ltd.. *See Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306, 51306 (August 28, 2014). Further, on January 5, 2016, Commerce found that Thai Union Group Public Co., Ltd. is the successor-in-interest to Thai Union Frozen Products Public Co., Ltd. *See Notice of Final Results of Antidumping Changes Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 81 FR 222 (January 5, 2016). Therefore, absent information to the contrary, we are treating these companies as a single entity for the purposes of this administrative review.

⁴ *See* ASPA’s Letter, “Certain Frozen Warmwater Shrimp from Thailand: American Shrimp Processors Associations’ Partial Withdrawal of Review Requests,” dated July 6, 2022; and AHSTAC’s Letter, “Certain Frozen Warmwater Shrimp from Thailand: Domestic Producers’ Partial Withdrawal of Review Requests,” dated July 5, 2022; *see also* Thai Royal’s Letter, “Frozen Warmwater Shrimp from Thailand: Withdrawal of Request for Administrative Review,” dated July 5, 2022.

⁵ *See* Memorandum, “Extension of Deadline for Preliminary Results of 2021-2022 Antidumping Duty Administrative Review,” dated October 3, 2022.

⁶ *See* Memorandum, “Decision Memorandum for the Preliminary Results of the 2021-2022 Administrative Review of the Antidumping Duty Order on Circular Frozen Warmwater Shrimp from Thailand,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. AHSTAC, ASPA, and Thai Royal timely withdrew their requests for an administrative review with respect to each company listed in the *Initiation Notice*, other than Thai Union. No other party requested a review of these companies. Accordingly, we are rescinding this review, in part, with respect to these companies, pursuant to 19 CFR 351.213(d)(1). The producers and/or exporters for which we are rescinding the administrative review are listed at Appendix II of this notice.

Scope of the Order

The merchandise subject to the *Order* is certain warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form. The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size. The products subject to the *Order* are currently classifiable in HTSUS subheadings 0306.17.0004, 0306.17.0005, 0306.17.0007, 0306.17.0008, 0307.17.0010, 0306.17.0011, 0306.17.0013, 0306.17.0014, 0306.17.0016, 0306.17.0017, 0306.17.0019, 0306.17.0020, 0306.17.0022, 0306.17.0023, 0306.17.0025,

0306.17.0026, 0306.17.0028, and 0306.17.0029. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive.⁷

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margin exists for Thai Union for the period February 1, 2021, through January 31, 2022:

Exporter/Producer	Weighted-Average Dumping Margin (percent)
Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd.	0.00

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.⁸ Case briefs or other written comments may be submitted to Commerce no later than 30 days after the date of publication of this notice.⁹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.¹⁰ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with

⁷ For a complete description of the scope of the *Order*, *see* Preliminary Decision Memorandum at 4-5.

⁸ *See* 19 CFR 351.224(b).

⁹ *See* 19 CFR 351.309(c).

¹⁰ Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹¹ Case and rebuttal briefs should be filed using ACCESS.¹² Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information.¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.¹⁴ Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.¹⁵ Parties should confirm by telephone the date and time of the hearing two days before the scheduled date. An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.¹⁶

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.¹⁷ If the weighted average dumping margin for Thai Union is not zero or *de minimis* (i.e., less than 0.5 percent), we will calculate importer-specific *ad valorem* antidumping duty

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² See 19 CFR 351.303.

¹³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹⁴ See 19 CFR 351.310(c).

¹⁵ See 19 CFR 351.310(d).

¹⁶ See section 751(a)(3)(A) of the Act.

¹⁷ See 19 CFR 351.212(b).

assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Where the respondent did not report entered value, we will calculate the entered value in order to calculate the assessment rate. If the weighted-average dumping margin for the respondents listed above is zero or *de minimis* in the final results, or an importer-specific assessment rate is zero or *de minimis* in the final results, we will instruct CBP not to assess antidumping duties on any of their entries in accordance with the *Final Modification for Reviews*.¹⁸

Commerce's "automatic assessment" will apply to entries of subject merchandise during the POR produced by Thai Union for which it did not know that the merchandise it sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁹

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Thai Union will be equal to the weighted-average dumping

¹⁸ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

¹⁹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review or previous segment, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment for the producer of the merchandise;; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.34 percent, the all-others rate made effective by the *Section 129 Determination*.²⁰ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: February 28, 2023.

Ryan Majerus,

Deputy Assistant Secretary

²⁰ See *Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand*, 74 FR 5638 (January 30, 2009) (*Section 129 Determination*).

for Policy and Negotiations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Partial Rescission of Administrative Review
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

Appendix II

List of Companies for Which the Administrative Review Has Been Rescinded

A. Wattanachai Frozen Products Co., Ltd.
A.P. Frozen Foods Co., Ltd.
A.S. Intermarine Foods Co., Ltd.
Ampai Frozen Food Co., Ltd.
Anglo-Siam Seafoods Co., Ltd.
Apitoon Enterprise Industry Co., Ltd.
Asian Alliance International Co., Ltd.
Asian Sea Corporation Public Company Limited
Asian Seafoods Coldstorage PLC
Asian Seafoods Coldstorage Public Co., Ltd. (A.K.A. Asian Seafoods Coldstorage (Suratthani)Co.)
Asian Seafoods Coldstorage Public Company Limited
Asian Star Trading Co., Ltd.
B.S.A. Food Products Co., Ltd.
Bright Sea Co., Ltd./The Union Frozen Products Co., Ltd.
C N Import Export Co., Ltd.
C.K. Frozen Fish and Food Co., Ltd.
C.P. Intertrade Co. Ltd.
Chaivaree Marine Products Co., Ltd.
Chanthaburi Frozen Food Co., Ltd.
Chanthaburi Seafoods Co., Ltd.
Charoen Pokphand Foods Public Company Limited/CP Merchandising Co., Ltd.
Chonburi LC
Commonwealth Trading Co., Ltd.
CPF Food Products Co., Ltd.
Crystal Frozen Foods Co., Ltd.
Daedong (Thailand) Co., Ltd.
Daiei Taigen (Thailand) Co., Ltd.
Daiho (Thailand) Co., Ltd.
Earth Food Manufacturing Co., Ltd.
F.A.I.T. Corporation Limited
Far East Cold Storage Co., Ltd.
Findus (Thailand) Ltd.
Fortune Frozen Foods (Thailand) Co., Ltd.
Gallant Ocean (Thailand) Co., Ltd.
Golden Seafood International Co., Ltd.
Good Fortune Cold Storage Ltd.
Good Luck Product Co., Ltd.
Grobest Frozen Foods Co., Ltd.
Haitai Seafood Co., Ltd.
Handy International (Thailand) Co., Ltd.
Heritrade Co., Ltd. (AKA Heritrade)
HIC (Thailand) Co., Ltd.
I.T. Foods Industries Co., Ltd.
Inter-Oceanic Resources Co., Ltd.
Inter-Pacific Marine Products Co., Ltd.
K & U Enterprise Co., Ltd.
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.

Kingfisher Holdings Ltd./KF Foods Limited
Kitchens of the Ocean (Thailand) Ltd.
Kongphop Frozen Foods Co., Ltd.
Kyokuyo Global Seafoods Co., Ltd.
Lee Heng Seafood Co., Ltd.
Li-Thai Frozen Foods Co., Ltd.
Lucky Union Foods Co., Ltd.
Mahachai Food Processing Co., Ltd.
Marine Gold Products Ltd.
May Ao Foods Co., Ltd./A Foods 1991 Co., Limited
Merkur Co., Ltd.
N&N Foods Co., Ltd.
N.R. Instant Produce Co., Ltd.
Narong Seafood Co., Ltd.
Nongmon SMJ Products
Pacific Fish Processing Co., Ltd.
Penta Impex Co., Ltd.
Phatthana Frozen Food Co., Ltd.
Phatthana Seafood Co., Ltd.
Premier Frozen Products Co., Ltd.
Royal Andaman Seafood Co., Ltd.
S&D Marine Products Co., Ltd.
S. Chaivaree Cold Storage Co., Ltd.
S. Khonkaen Food Industry Public Co., Ltd.
S.K. Foods (Thailand) Public Co. Limited
S2K Marine Product Co., Ltd.
Sea Bonanza Food Co., Ltd.
Sea Wealth Frozen Food Co., Ltd.
Seafresh Industry Public Co., Ltd./Seafresh Fisheries
SEAPAC
Sea-Tech Intertrade Co., Ltd.
Sethachon Co., Ltd.
Shianlin Bangkok Co., Ltd.
Shing Fu Seaproducts Development Co.
Siam Food Supply Co., Ltd.
Siam Intersea Co., Ltd.
Siam Marine Products Co., Ltd.
Siam Ocean Frozen Foods Co., Ltd.
Siam Union Frozen Foods (A.K.A. The Siam Union Frozen Foods Co., Ltd.)
Siamchai International Food Co., Ltd.
Smile Heart Foods (A.K.A. Smile Heart Foods Co. Ltd.)
SMP Food Product Co., Ltd.
Songkla Canning Public Co., Ltd.
Southeast Asian Packaging and Canning Ltd.
Southport Seafood (A.K.A. Southport Seafood Co., Ltd.)
Starfoods Industries Co., Ltd.
STC Foodpak Ltd.
Suntechthai Intertrading Co., Ltd.
Surapon Foods Public Co. Ltd./Surat Seafoods Public Co., Ltd.
Surapon Nichirei Foods Co., Ltd.
Tep Kinsho Foods Co., Ltd.
Tey Seng Cold Storage Co., Ltd./Chaiwarut Co., Ltd.

Thai Agri Foods Public Co., Ltd.
Thai I-Mei Frozen Foods Co., Ltd.
Thai Ocean Venture Co., Ltd.
Thai Royal Frozen Food Co., Ltd.
Thai Spring Fish Co., Ltd.
Thai Union Manufacturing Company Limited
Top Product Food Co., Ltd.
Trang Seafood Products Public Co., Ltd.
Unicord Public Co., Ltd.
Xian-Ning Seafood Co., Ltd.
Yeenin Frozen Foods Co., Ltd.
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